

**FILED**

**SEP 20 2005**

**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

1 Mark R. Wolfe, CA Bar No. 176753  
2 John H. Farrow, CA Bar No. 209221  
3 M. R. WOLFE & ASSOCIATES, P.C.  
4 140 Second Street, Sixth Floor  
5 San Francisco, CA 94105  
6 Tel: (415) 369-9400; Fax: (415) 369-9405

7 Mark A. White, CA Bar No. 88332  
8 John G. Heller, CA Bar No. 129901  
9 CHAPMAN, POPIK & WHITE, LLP  
10 650 California Street, 19<sup>th</sup> Floor  
11 San Francisco, CA 94108  
12 Tel: (415) 352-3000; Fax: (415) 352-3030

13 Attorneys for Plaintiff Jeffrey Petri

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15 UNITED STATES DISTRICT COURT  
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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19 JEFFREY R. PETRI,  
20  
21 Plaintiff,  
22  
23 v.  
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25 JOHN HAIRE, CHARLES JACKSON, PETER  
26 TAOY, TOM RIDGE in his capacity as  
27 Secretary of Homeland Security; MICHAEL J.  
28 GARCIA in his capacity as Assistant Secretary  
of Homeland Security, U.S. Immigration and  
Customs Enforcement; WENDELL C.  
SHINGLER in his capacity as Director of the  
Federal Protective Service,

Defendants.

No. C 05-00656 MHP

**STIPULATION AND [Proposed]  
ORDER GRANTING LEAVE TO FILE  
FIRST AMENDED COMPLAINT**

1 WHEREAS, Plaintiff Jeffrey Petri ("Petri") filed the complaint in this action on February 11,  
2 2005, and

3 WHEREAS, in tandem with the filing of the complaint, Petri also filed an administrative claim  
4 under the Federal Tort Claims Act ("FTCA") in February, 2005, and

5 WHEREAS, having received no formal response to his administrative claim, and with the  
6 passing of the statutory six-month deadline, Petri is deeming that claim denied, and

7 WHEREAS, Petri accordingly seeks to amend his complaint to: (1) add an FTCA claim to his  
8 complaint, joining the United States as an additional defendant for this purpose; (2) substitute Michael  
9 Chertoff for Tom Ridge as current Secretary of Homeland Security; (3) add Joseph Loerzel as an  
10 additional defendant sued in his official capacity as Regional Director of FPS Region 9; and (4) clarify  
11 and restate certain allegations in the original complaint, and

12 WHEREAS, defendants Tom Ridge, Michael Garcia and Wendell Shingler ("Agency  
13 Defendants") filed an answer to the complaint on June 7, 2005, and

14 WHEREAS, Agency Defendants are the only defendants who have to date appeared and  
15 pleaded in response to the complaint filed herein, and

16 WHEREAS, Agency Defendants do not object to Petri's filing of an Amended Complaint  
17 provided they retain all defenses and objections to the allegations in the FIRST AMENDED  
18 COMPLAINT.

19 NOW THEREFORE, Petri and Agency Defendants hereby stipulate to the following:

20 1. Petri shall be granted leave to file the documented titled FIRST AMENDED  
21 COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF that is attached hereto as Exhibit A,  
22 without prejudice to Agency Defendants' right and ability to assert all defenses and objections to the  
23 allegations in the FIRST AMENDED COMPLAINT.

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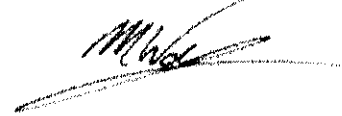
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28 /

1 Dated: September 19, 2005

M.R. WOLFE & ASSOCIATES

2 

3 By: \_\_\_\_\_  
4 Mark R. Wolfe

5  
6 CHAPMAN, POPIK & WHITE, LLP  
7 John G. Heller

8 Attorneys for Plaintiff Jeffrey Petri  
9

10 Dated: September 19, 2005

McGREGOR W. SCOTT  
UNITED STATES ATTORNEY

11  
12  
13 By: /s/ Kendall J. Newman  
14 KENDALL J. NEWMAN  
15 JOHN F. GISLA  
16 Assistant U.S. Attorneys

17 Attorneys for Agency Defendants  
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**ORDER GRANTING LEAVE TO FILE FIRST AMENDED COMPLAINT**

The Parties having stipulated, IT IS HEREBY ORDERED:

1. Plaintiff shall be granted leave to file the FIRST AMENDED COMPLAINT attached herewith as Exhibit A, without prejudice to Agency Defendants's rights to assert all defenses and objections to the allegations in the FIRST AMENDED COMPLAINT.

Dated: 9/20, 2005.

  
The Honorable Marilyn Hall Patel  
United States District Judge